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FILED
DISTRICT COURT OF GUAM

AUG 27 2008 *nc*

JEANNE G. QUINATA
Clerk of Court

6
7 **IN THE UNITED STATES DISTRICT COURT**
8 **FOR THE TERRITORY OF GUAM**
9

10 UNITED STATES OF AMERICA,) CRIMINAL CASE NO. 08-00040
11 Plaintiff,)
12 vs.) **PLEA AGREEMENT**
13 EVANGELINE RAPOLLA CRUZ,)
14 Defendant.)

15 Pursuant to Rule 11(c)(1)(B), the United States and the defendant, EVANGELINE
16 RAPOLLA CRUZ, enter into the following plea agreement:

17 1. The defendant, EVANGELINE RAPOLLA CRUZ, agrees to enter a guilty plea to an
18 Information charging her with Theft of Government Property, in violation of 18 United States
19 Code, Section 641.

20 2. The defendant understands that the maximum sentence for Theft of Property in an
21 amount that does not exceed \$1,000.00, in violation of 18 U.S.C. § 641, as a Class A
22 misdemeanor as specified in 18 U.S.C. § 3559, is imprisonment for not more than one year and a
23 maximum fine of \$100,000.00, together with any restitution as the court may order, and a \$25
24 special assessment fee as set forth in 18 U.S.C. § 3013. Any sentence of incarceration may
25 include a term of supervised release of not more than one year as set forth in 18 U.S.C. §
26 3583(b)(3). If the court revokes a sentence of supervised release, the court may incarcerate the
27 Defendant up to an additional term of not more than one year as set forth in 18 U.S.C. §
28 3583(e)(3). The total of \$25 special assessment fee must be paid upon sentencing. The

1 government will recommend that defendant receive the low end of the sentencing guidelines, a
2 fine, and credit for time served, if any.

3 3. If defendant is financially unable to immediately pay the fine in full, defendant agrees
4 to make a full disclosure of his financial status to the United States Attorney's Office by
5 completing a Financial Disclosure Form (OBD-500) for purpose of fixing a monthly payment
6 schedule. Defendant understands that, by law, interest accrues on any remaining balance of the
7 debt.

8 4. The defendant understands that to establish a violation of Theft of Government
9 Property, in violation of 18 United States Code, Sections 641, the government must prove each
10 of the following elements beyond a reasonable doubt:

11 First, that the defendant knowingly and willingly stole money and property with the
12 intention of depriving the owner of the use or benefit of the money and property;

13 Second, the money and property belonged to the United States; and

14 Third, the value of the property did not exceed \$1000.00.

15 5. The defendant understands that the Sentencing Guidelines are advisory only. The
16 Court may still utilize the sentencing guidelines as an aid to determine the sentence to be
17 imposed. The government and the Defendant stipulate to the following facts for purposes of the
18 sentencing:

19 a. The defendant was born in 1973 and is a citizen of the United States.

20 b. That on or about April 30, 2008, in the District of Guam, the defendant,
21 EVANGELINE RAPOLLA CRUZ, willfully and knowingly, did steal and purloin United States
22 currency from the Navy Morale, Welfare, and Recreation Department, Guam. That the
23 defendant, EVANGELINE RAPOLLA CRUZ, knowingly and willingly stole the currency with
24 the intention of depriving the owner of the use or benefit of the currency. That United States
25 currency from the Navy Morale, Welfare, and Recreation Department, Guam, is property of the
26 United States. That the value of the United States currency stolen and purloined from the Navy
27 Morale, Welfare, and Recreation Department, Guam, was of the value of \$1000.00. That the
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1 \$1000.00 in currency from the Navy Morale, Welfare, and Recreation Department, Guam, had
2 come into the possession of the defendant, EVANGELINE RAPOLLA CRUZ, by virtue of her
3 employment at the Navy Morale, Welfare, and Recreation Department.

4 That the defendant, EVANGELINE RAPOLLA CRUZ, entrusted to deposit \$1,000.00 by
5 the Navy Morale, Welfare, and Recreation Department, instead stole the currency and spent it on
6 personal items including cigarettes, gasoline, and food.

7 6. The defendant understands that notwithstanding any agreement of the parties, the
8 United States Probation Office will make an independent application of the Sentencing
9 Guidelines or determine an appropriate sentencing range. The defendant acknowledges that
10 should there be discrepancies in the final Sentencing Guidelines or sentencing range, projected
11 by her counsel or any other person, such discrepancy is not a basis to withdraw her guilty plea.

12 7. The defendant agrees to pay restitution in the amount of \$1000.00 to the Navy Morale,
13 Welfare, and Recreation Department in Guam.

14 8. The defendant agrees to waive any right to appeal or to collaterally attack this
15 conviction. The defendant reserves the right to appeal the sentence actually imposed in this case.

16 9. The defendant acknowledges that she has been advised of her rights as set forth below
17 prior to entering into this plea agreement. Specifically, defendant has been fully advised of, has
18 had sufficient opportunity to reflect upon, and understands the following:

19 a. The nature and elements of the charge and the mandatory minimum penalty
20 provided by law, if any, and the maximum possible penalty provided by law;

21 b. Her right to be represented by an attorney;

22 c. Her right to plead not guilty and the right to be tried by a jury and at that trial, the
23 right to be represented by counsel, the right to confront and cross-examine witnesses against her,
24 and the right not to be compelled to incriminate herself, that is, the right not to testify;

25 d. That if she pleads guilty, there will not be a further trial of any kind on the charges
26 to which such plea is entered so that by entering into this plea agreement, she waives, that is,
27 gives up, the right to a trial;

1 e. That, upon entry of a plea of guilty, or thereafter, the Court may ask her questions
2 about the offenses to which she has pled, under oath, and that if she answers these questions
3 under oath, on the record, her answers may later be used against her in prosecution for perjury or
4 false statement if an answer is untrue;

5 f. That she agrees that the plea agreement is voluntary and not a result of any force,
6 threats or promises apart from this plea agreement;

7 g. That she reads, writes and speaks the English language and has no need for an
8 interpreter;

9 h. That she has read the plea agreement and understands it; and

10 i. The Defendant is satisfied with the representation of her lawyer and feels that her
11 lawyer has done everything possible for her defense.

12 DATED: 8-25-08

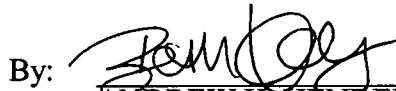
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EVANGELINE RAPOLLA CRUZ
Defendant

14 DATED: 8/25/08

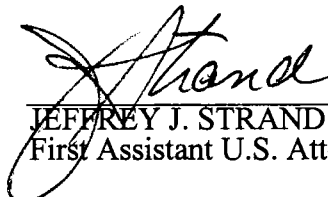
15 
RICHARD ARENS
Attorney for Defendant

16
17 LEONARDO M. RAPADAS
18 United States Attorney
19 Districts of Guam and NMI

20 DATED: 8/25/08

21 By: 
22 ANDREW H. HENDERSON BETH C. KONTNY
23 Special Assistant U.S. Attorney

24 DATED: 8/25/08

25 
26 JEFFREY J. STRAND
27 First Assistant U.S. Attorney
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